

REMARKS

The Examiner's communication dated May 29, 2009 has been received and carefully considered. In conformance with the applicable statutory requirements, this paper constitutes a complete reply and/or a bona fide attempt to advance the application to allowance. In particular, detailed arguments in support of patentability are presented, along with new dependent claim 30. Reexamination and/or reconsideration of the application as amended are respectfully requested.

Summary of the Office Action

Claims 2-16, 19-22 and 24-29 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Greenwood.

Claims 17 and 18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Greenwood as applied above, and further in view of Richardson (U.S. Patent No. 3,788,016).

Claim 23 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Greenwood as applied above, and further in view of Shomaker (U.S. Patent No. 6,701,563).

Finality of the Office Action

Applicant notes that the Office Action to which the subject paper is responsive was made final. The Examiner admitted on page 5 of the Office Action that he removed the previous §102 rejection and instead applied a §103 rejection. Since this change was not necessitated by any amendment by Applicant (no claims were amended in Applicant's last response), it is respectfully submitted that the currently outstanding Office Action (i.e., issued on May 29, 2009) should have been non-final and the subject paper should be treated as being responsive to a non-final Office Action.

Claims Distinguish Patentably Over the Reference(s) of Record

Independent **claims 2, 19, 20 and 24** each call for a prefabricated movable member and a corresponding elongate member. The prefabricated movable member is

recited as having an extension arranged to directly support a deck laterally of the elongate member. It is respectfully submitted that Greenwood neither discloses nor fairly suggests a movable member having an extension arranged to directly support a deck laterally of an elongate member.

In the Office Action, the Examiner indicates that upper section 44a of leg 44 in Greenwood is the movable member and lower section 44b of the leg 44 is the recited corresponding elongate member. The Examiner further indicates that alleged movable member 44a has an extension 56 which angles upwardly to meet other extensions 56 at a plate 38. Per the Examiner:

While it is not specifically disclosed that this plate supports the deck, it is clear that a flat surface would permit the lower surface of the deck to rest there upon. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have supported the deck with the extension/plate combination (56, 38) in order to increase the load bearing capacity of the deck.

Office Action at pg. 2. Applicant appreciates the Examiner's concession that there is no specific disclosure of the strut 56 and plate 38 supporting the deck (i.e., paneling 40), but disagrees with the Examiner's conclusion that it would have been obvious to support a deck with the extension/plate combination 56,38.

Applicant respectfully submits that the function of the strut 56 is to impart rigidity to the deck assembly 10. In particular, upper ends of opposed struts 56 are detachably secured to the center tie plate 38. Likewise, upper ends of diagonal pieces 34a,34b and 36a,36b are detachably secured to the center tie plate 38. The diagonal pieces 34a, 34b are explicitly disclosed as introducing rigidity into the deck border frame 22. See *Col. 2, lines 10+*. Since the struts 56 are similarly fastened to the tie plate 38, they must also function to impart rigidity to the border frame (not support a deck).

In contrast, the frame elements 24,26,28,30, which comprise the border frame 22, are indicated as supporting or carrying the paneling 40 (i.e., the paneling that comprises the deck). In particular, the frame elements 24-30 are indicated as being formed of angle iron and being disposed such that an internal angle defined along the length of each angle iron piece forms an inward facing shelf extending about the border

frame. See *col. 2, lines 3+*. The paneling is explicitly indicated as resting on the border frame within the shelf provided. *Col. 2, lines 16-18*. If any supporting function were provided by the struts 56 and/or tie plate 38, it is submitted that such functionality would be described. Since no such supporting functionality is described in reference to strut 56 and/or tie plate 38, and such supporting functionality is described in reference to other components (e.g., angle iron frame elements 24-30), Applicant respectfully submits that Greenwood at least implies (if not teaches) that no supporting function is provided by the struts 56.

In addition, and further supporting Applicant's position, is the connection type provided between lower ends of the struts 56 and the alleged movable member 44a. In particular, as best shown in Fig. 2, a detachable connection 58 connects the lower ends of the struts 56 to respective movable members 44a. The detachable connection appears to be a screw-type fastener from the depiction in Fig. 2. In addition, a washer or similar spacer element (no reference number) is shown interposed between the strut 56 and the upper leg section 44a. This connection does not appear to be of a type suitable for allowing the struts 56 to support the deck (the function alleged by the Examiner). Instead, Applicant respectfully submits that the struts 56 would tend to pivot downwardly if any vertical force were applied by the deck downward onto the tie plate 38. If the struts 56 of Greenwood were supplying any supporting function to the deck, Applicant asserts that some other type of connection would be illustrated. Instead, it appears that Greenwood teaches away from any deck supporting function for the struts 56 due to the non-supporting connection between the struts and the leg sections 44a.

Further, the disclosed deck in Greenwood is paneling 40. As indicated at *col. 2, lines 18+*, this paneling may comprise one or more panel pieces disposed in a plane. If the tie plate 38 and the struts 56 were to support the paneling, Applicant respectfully submits that some other configuration would be required to provide support when the deck is formed of a plurality of panels 40, otherwise only a single one of the panels (e.g., a central panel extending between frame elements 24,26) would receive any support. This further accords with Applicant's position that the struts 56 and the tie plate 38, whether alone or in combination, fail to support a deck as required by the claims.

Accordingly, for at least the foregoing reasons, it is respectfully submitted that all remaining pending claims (i.e., claims 2-30) are in condition for allowance.

CONCLUSION

All formal and informal matters having been addressed, it is respectfully submitted that this application is in condition for allowance. Alternatively, if the Examiner is of the view that the application is not in clear condition for allowance, it is requested that the Examiner telephone the undersigned for purposes of conducting a telephone interview to resolve any outstanding differences. Accordingly, an early notice of allowance is earnestly solicited.

If there are any additional fees resulting from this communication, please charge same to our Deposit Account No. 18-0160, our Order No. BEL-19148.

Respectfully submitted,

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July 29, 2009
Date

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